

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION THREE

LAW OFFICES OF DAVID S. KARTON,
A LAW CORPORATION,

Plaintiff and Appellant,

v.

GIUSEPPE SEGRETO,

Defendant and Respondent.

B211129

(Los Angeles County
Super. Ct. No. BS112913)

ORDER MODIFYING OPINION
AND DENYING REHEARING
[NO CHANGE IN JUDGMENT]

THE COURT:

It is ordered that the opinion filed herein on July 30, 2009, be modified as follows:

1. Page 11, footnote 12:

Delete the last sentence of the footnote. Replace it with, “In his petition for rehearing, Segreto notes that there are other proper bases for dismissing a petition to confirm an arbitration award, such as if the petition is filed after the four-year period set forth in Code of Civil Procedure section 1288, or after a party to a non-binding arbitration award has filed a timely request for trial de novo. We agree that such other

bases exist, and do not intend by this opinion to set forth all of the valid procedural bases on which a petition to confirm an arbitration award may be dismissed. Indeed, it may be that a petition to confirm, vacate or correct an award may be dismissed on any procedural basis which would justify dismissal of any other civil action. However, what is clear from the language of the Code of Civil Procedure is that a petition to vacate or correct an award cannot be dismissed simply because sufficient reasons have not been presented to grant it. Without an independent basis justifying dismissal of a petition to correct or vacate, if the petition is not granted, the trial court must confirm the award, not dismiss the petition as a means of denying it. Thus, in this case, dismissal was not a viable option.

The petition for rehearing is denied.

[No change in judgment.]